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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 -----x

4 SECURITIES AND EXCHANGE  
5 COMMISSION,

6 Plaintiff,

7 v.

8 16 CV 3505 (WHP)

9 DEVON ARCHER, et al.,

10 Defendants.

11 -----x  
12 New York, N.Y.  
13 November 10, 2016  
14 4:34 p.m.

15 Before:

16 HON. WILLIAM H. PAULEY III,

17 District Judge

18 APPEARANCES (By Telephone)

19 SECURITIES AND EXCHANGE COMMISSION  
20 Attorneys for Plaintiffs

21 BY: NANCY BROWN  
22 GREG BAKER

23 BOISE SCHILLER & FLEXNER  
24 Attorneys for Defendant Archer  
25 BY: DAVID NELSON

SPERTUS LANDES & UMHOFER  
Attorneys for Defendant Cooney  
BY: DIANE BANG

WIAND GUERRA KING  
Attorneys for Defendant Hirst  
BY: MATTHEW MUELLER

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1                   THE COURT: Good afternoon. This is District Judge  
2 Pauley. You're on a speakerphone in my robing room and a court  
3 reporter is present recording what is being said.

4                   Would counsel for the plaintiffs give their  
5 appearance.

6                   MS. BROWN: Good afternoon, your Honor. Nancy Brown  
7 and Greg Baker for the SEC.

8                   THE COURT: Good afternoon, Ms. Brown.

9                   Would counsel for defendant Archer give his  
10 appearance.

11                  MR. NELSON: Good afternoon, your Honor. It's David  
12 Nelson. I'm with Boise Schiller & Flexner on behalf of  
13 Mr. Archer.

14                  THE COURT: Good afternoon, Mr. Nelson.

15                  And counsel for defendant Cooney.

16                  MS. BANG: Good afternoon, your Honor. Diane Bang  
17 from Spertus Landes & Umhofer.

18                  THE COURT: Good afternoon, Ms. Bang.

19                  And, finally, counsel for defendant Hirst.

20                  MR. MUELLER: Good afternoon, your Honor. Matthew  
21 Mueller from Wiand Guerra King on behalf of Mr. Hirst.

22                  THE COURT: Good afternoon to you, Mr. Mueller.

23                  Is there anything else on the call?

24                  All right. Silence is golden.

25                  I'd ask to the extent anyone speaks that they identify

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1 themselves first before speaking.

2 I asked my law clerk to set up a quick conference call  
3 in this matter because the other day the SEC filed a motion to  
4 amend the complaint to add a defendant and request a slight  
5 modification in the relief requested. There's a lot of paper  
6 here, Ms. Brown, on that motion, and perhaps it would have been  
7 easier for everybody if the SEC had just followed the  
8 individual rules of practice and written me a short letter  
9 because I would have said there's no need to file a motion to  
10 amend a complaint to add a defendant, especially at this stage  
11 of the litigation. And I wanted to get this word out because  
12 there's no need for anybody to oppose the motion. Leave should  
13 be freely given under Rule 15.

14 The other issue that I noticed in looking at the  
15 proposed amended pleading is that while you've added a  
16 defendant, you have not added him to the caption of your  
17 amended complaint. That will make it very difficult for the  
18 clerk, and I don't like to make things difficult for the clerk.

19 So is there anyone that has a view that the SEC should  
20 not be permitted to file an amended complaint with a corrected  
21 caption by early next week? Anybody want to be heard on that?

22 Once again, silence says it all.

23 So no one has to respond to this motion or appear at  
24 any hearing. The SEC's application is granted. I will issue a  
25 short order authorizing the filing of an amended complaint.

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1                   And when can you file the amended complaint and make  
2 the correction in the caption that I've pointed out to you,  
3 Ms. Brown?

4 MS. BROWN: Next week, your Honor.

5 THE COURT: Okay. So shall we say by November 15?

6 MS. BROWN: Sure.

7 THE COURT: All right. Anything else?

8 MS. BROWN: Not from us. Thank you.

13 MS. BROWN: Yes, your Honor.

14 THE COURT: All right. Have a good evening, everyone.

15 MS. BROWN: Thank you.

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